

ENVIRONMENTAL RESOURCE PERMIT APPLICANT'S HANDBOOK VOLUME I (GENERAL AND ENVIRONMENTAL)

**This Volume, including Appendices G, H, and I only is
incorporated by reference in subsection 62-330.010(4), F.A.C.**

Effective Effective date

FOR:

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT DISTRICT



4.2.2 Preparing a Notice of Intent to Use a General Permit

Available general permits, including the specific limitations and conditions that apply to each are in Rules 62-330.410 through 62-330.635, F.A.C. General conditions applying to all general permits are in Rule 62-330.405, F.A.C.

Rule 62-330.402, F.A.C., contains the procedures to submit a notice of intent to use a general permit, and how it will be reviewed by the Agencies. Persons wishing to use a GP must complete Form 62-330.402(1), "Notice of Intent to Use an Environmental Resource and/or State 404 Program General Permit." This form will provide the Agency with information needed to determine if the requested activity is on state-owned submerged lands and if the activity qualifies for the SPGP (see **section 1.3.1.2**, above). The notice must include:

- (a) A location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity;
- (b) Documentation of the person's real property interest, as described in section 4.2.3(d) below, over the land upon which the activities subject to the notice will be conducted;
- (c) One set of construction plans, drawings, other supporting documents that depict and describe that the proposed activities qualify for the GP requested; and
- (d) The fee required by Rule 62-330.071, F.A.C.

The notice may be submitted electronically or mailed to the Agency as provided in Rule 62-330.010, F.A.C. See **Appendix A** of this Volume for information on who to contact if you have any questions about whether the proposed activity may qualify for a GP, and **section 4.4**, below, for additional information on submitting notices.

Effective July 1, 2012, and amended April 6, 2016, the Florida Legislature established a general permit in Section 403.814(12), F.S., authorizing certain activities located entirely in uplands having a total project area of less than 10 acres and less than two acres of impervious surface. This is not a general permit under Chapter 62-330, F.A.C., and is not subject to the noticing and review provisions of that chapter. Additional information on that general permit is in **section 3.1.3**, above.

4.2.3 Preparing an Application for an Individual or Conceptual Approval Permit

Except as provided in Rule 62-330.054(4), F.A.C., applications for individual and conceptual approval permits must be made on Form 62-330.060(1), "Application for Individual and Conceptual Approval Environmental Resource Permit, State 404 Program Permit, and Authorization to Use State-Owned Submerged Lands," available at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource> or from the Internet site or office of any of the Agencies (see **Appendix A of this Volume**). It is designed so an applicant will need to complete only those sections applicable to the type of activity proposed. The form requests site and design information needed:

- To distribute, process, and evaluate whether the application meets the standards and criteria for issuance;

- To determine if the requested activity is on state-owned submerged lands, and whether it qualifies for any applicable authorization to use and occupy those lands; and
- To determine whether the activity qualifies for the SPGP (see **section 1.3.1.2, above**).

The submitted application must contain one original mailed or an electronic submittal of the materials requested in the applicable sections of the form, and such other information as is necessary to provide reasonable assurance that the activities proposed in the application meet the conditions for issuance under Rule 62-330.301, F.A.C., the additional conditions for issuance under Rule 62-330.302, F.A.C., and the applicable provisions of the Applicant's Handbook. Those materials include:

- (a) Location maps of detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity;
- (b) Construction plans, drawings, calculations, and other supporting documents that depict and describe the proposed activities;
- (c) The applicable processing fee in accordance with Rule 62-330.071, F.A.C.;
- (d) Documentation of the applicant's real property interest over the land upon which the activities subject to the application will be conducted. Interests in real property typically are evidenced by:
 1. The applicant being the record title holder.
 2. The applicant being the holder of a recorded easement conveying the right to utilize the property for a purpose consistent with the authorization requested in the permit application.
 3. An entity having the right to exercise the power of eminent domain and condemnation authority, in which case the permit shall contain a provision that work cannot begin until proof of ownership is provided to the Agency.
 4. An entity having a contract to purchase the real property included in the application, in which case the permit shall contain a provision that work cannot begin until proof of ownership is provided to the Agency. The contract to purchase shall be provided to the Agency (financial terms can be redacted). If the contract to purchase does not authorize the Agency to access, inspect, and sample the property, then the applicant shall provide written authorization from the record title holder to enable staff of the Agency to legally access, inspect, and sample the property in accordance with section 4.2.3(f) below.
 5. An entity that has either obtained or has an application to obtain a permit or other legal authorization from the Florida Department of Transportation, a Water Management District, or local government authorizing construction, operation, and maintenance of parts of the proposed system that will be located on right of way property.

65. A lessee of the property included in the application, provided at least one of the following exists:
- a. The record title owner is a co-applicant on the application.
 - b. The applicant provides a copy of a written agreement with a governmental entity that states that the governmental entity agrees to accept the transfer of the permit if the lease is revoked, terminated or expires and that the governmental entity will accept the operation and maintenance phase of the permit. Documentation must be provided that the governmental entity has a recorded right of entry agreement or access easement to enter upon the property for these purposes.
 - c. The applicant provides a recorded restrictive covenant or other recorded instrument demonstrating that the record title holder agrees to be responsible for the permanent operation and maintenance of the system upon revocation, termination or expiration of the lease.
 - d. Where the lease is on lands owned by a water management district, the government of the State of Florida or the United States, the lessee shall:
 - 1] Provide a bond made payable to the Agency in an amount sufficient to construct the stormwater management system, or provide other measures suitable for ensuring that the stormwater management system can be completed, removed, or abandoned in the event the lessee, at any time, fails to or cannot complete construction of the system;
 - 2] Provide an agreement from a person in accordance with Part V of this Volume who agrees to be responsible for operation and maintenance of the system in the event the lessee, at any time, fails to or can no longer operate and maintain the system; or
 - 3] Provide an easement or other legally-binding document from the landowner or other person with sufficient real property interest in the lands subject to the application giving the Agency and other persons who require it, a right of entry for purposes of inspecting for compliance, monitoring, operating and maintaining, and completing construction as needed to comply with the permit, if issued.
76. Alternatives such as a recorded option agreement, a judgment of the court, or a certificate of title issued by a clerk of the court, that show that the person or entity has sufficient interest in, or control over, the property to construct, alter, operate, and maintain the project in accordance with Chapter 62-330, F.A.C. Except when it cannot reasonably be provided (such as when there is a court determination, or an inability to locate the record title holder), the recorded documentation shall indicate that the record title holder agrees to accept responsibility for the permit, is agreeable to accept the transfer of the permit, and that the Agency has third party enforcement rights to enforce the terms and conditions of the permit on the property.

87. Additional persons may be included as co-applicants, provided that one of the persons listed in 1. through 6., above is included as an applicant.

- (e) Applications must be signed by an entity having sufficient real property interest over the land upon which the activities subject to the application will be conducted as described in section 4.2.3(d), above. The applicant may designate an agent to provide materials in support of the application on its behalf. If the applicant is a non-individual entity required by statute or rule to register with the State of Florida Secretary of State, it must be registered, and the person signing the application must have the legal authority to bind the entity with the terms, conditions, and liabilities associated with such application and subsequent permit, if issued. Further, any such entity must maintain their registration with the State of Florida Secretary of State for the duration of the permitted activities.
- (f) Written authorization from the owner, lessee, or easement holder for staff of the Agency to enter onto, inspect, and conduct sampling or monitoring of the site that is subject to the application. If this is not possible, the applicant shall secure other means for staff to access the site in a manner that prevents trespass, and to demonstrate how the applicant will obtain approval from the entity having sufficient real property interest over the land subject to the application to perform the activities proposed prior to undertaking the work.
- (g) Where an operating entity described in **section 12.3.1** of this Volume will be different from the permittee, written confirmation is required from the operating entity that they agree to accept responsibility for operation and maintenance of the activity as set forth in the permit, as further set forth in **section 12.3** of this Volume. Written confirmation is not required if the operation and maintenance entity is approved upon issuance of the permit for the construction phase, or in a permit modification.
- (h) Persons requesting to conduct activities on state-owned submerged land must submit satisfactory evidence of sufficient upland interest in accordance with paragraph 18-21.004(3)(b), F.A.C. (March 2, 2012), and are advised that necessary consent, lease, easement, or other form of authorization as required under the authority of Chapter 253 and, as applicable, Chapter 258, F.S., and the rules adopted thereunder, is required prior to initiating such work. In addition to demonstrating ownership or control in the land as described above, the applicant also must demonstrate that they have the riparian rights to the state-owned submerged lands necessary to conduct the proposed activity under paragraph 18-21.004(3)(b), F.A.C.

For construction of docks and piers when satisfactory evidence of sufficient upland interest is not fee simple title, the applicant's interest must cover the entire shoreline of the adjacent upland fee simple parcel or 65 feet, whichever is less, except as otherwise provided in paragraph 18-21.004(1)(d), F.A.C.
- (i) A separate mangrove alteration or trimming permit under Sections 403.9321 through 403.9333, F.S., is not required when the mangrove trimming or alteration is authorized and conducted as part of and in conformance with a general or individual environmental resource permit, or when necessary to construct projects in conformance with an exemption or general permit under Chapter 62-330, F.A.C.

Submittal of the application is discussed in **section 4.4, below**.

5.5.2 Distribution of Applications and Notices to the Public Prior to Agency Action

Receipt of the application form 62-330.060(1) by the Agency serves to initiate the application process for four ~~three~~ separate authorizations:

- (a) Application for an environmental resource permit. This will include distribution of all or parts of the application to interested parties and state agencies who have requested receipt of such application, or notice of its receipt;
- (b) Application for a State 404 Program permit, if the activities will occur within state-assumed waters regulated under Chapter 62-331, F.A.C. This will include distribution of a public notice to interested parties, adjacent property owners, the general public, and applicable state and federal agencies as provided in Chapter 62-331, F.A.C.;
- (~~c~~b) Application for a State Programmatic General Permit (SPGP), if applicable; and
- (~~d~~e) Application to use state-owned submerged lands, when the activities appear to be located on, or have the potential to be located on, such lands.

6.2.1 Applications for modifications are processed as either minor or major in accordance with Rule 62-330.315, F.A.C., and the following.

- (a) Applications for minor modifications, as described in Rule 62-330.315, F.A.C., other than to modify the permit to reflect a change in ownership or control of the land subject to the permit as provided in subsection 62-330.340(1), F.A.C., and section 6.3.2.1(a), **below**, may be requested electronically or by letter sent to the Agency that processed the permit. The request must include:
 - 1. Reference to the permittee name and permit number;
 - 2. Contact information for the requestor;
 - 3. A clear statement explaining the nature of the proposed modification
 - 4. Fully dimensioned or scaled drawings reflecting the proposed modification, if applicable.
- (b) A request to transfer a permit or to add co-permittees to a permit is considered a minor modification, and shall be made in accordance with Rule 62-330.340, F.A.C., and through use of the “Request to Transfer Environmental Resource and/or State 404 Program Permit” Form 62-330.340(1).
- (c) A request that does not qualify as a minor modification is processed as a major modification in accordance with subsection 62-330.315(3), F.A.C.
- (d) Factors that will be considered in determining whether a modification will cause more than minor changes under subsection 62-330.315(2), F.A.C., are whether the proposed activity will:

1. Increase the project area by more than 10 percent or 1 acre, whichever is less, unless the activities were permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification, or unless the increase in project area is to a mitigation bank, in which case any increase in the project area is considered a major modification;
 2. Increase proposed impervious and semi-impervious surfaces by more than 10 percent or 0.5 acres, whichever is less, unless the activities were permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification;
 3. Reduce the stormwater treatment or flood attenuation capability of the system, unless the activities were permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification;
 4. Result in additional net loss of regulated floodplain storage;
 5. Result in additional unmitigated impacts to wetlands or other surface waters, unless mitigation is not required pursuant to **section 10.2.2.1 or 10.2.2.2**, below;
 6. Result in more than 10 percent or 0.5 acre, whichever is less, of total additional mitigated impacts to wetlands and other surface waters;
 7. Result in any additional impacts within a designated riparian habitat protection zone;
 8. Cause or contribute to water quality violations that were not anticipated in the issued permit;
 9. Reduce the permitted financial responsibility mechanisms, except in accordance with specific permit conditions that provide for a reduction in such financial responsibility mechanisms;
 10. Result in a net reduction in the area of conservation easement or mitigation within the area which was previously permitted;
 11. Extend the duration of a permit beyond five years from the current permit expiration date except as otherwise provided in Rule 62-330.320(2), F.A.C.;
 12. Require a new site inspection that will require more than minimal staff time to conduct;
 13. Lead to substantially different impacts to the water resources or overall objectives of the District or Department, unless they lessen the impacts of the original permit; or
 14. Otherwise substantially alter the design of the activities or the permit conditions.
- (e) An application for a permit or a request to construct a phase of a project pursuant to Rule 62-330.056, F.A.C., is not a minor modification of the conceptual approval permit.

- (f) Requests to use or release mitigation bank credits shall be reviewed as a minor modification of the relevant mitigation bank permit.
- (g) All modification requests must include payment of the processing fee under Rule 62-330.071, F.A.C.

7.1 Methodology

Determinations of the landward extent of wetlands and other surface waters shall be performed using Chapter 62-340, F.A.C., as ratified under Section 373.4211, F.S.

Three ~~Two~~ types of determinations are available:

- (a) A formal determination, based on a certified survey, an approximate delineation, or a combination thereof, as discussed in **sections 7.2 through 7.2.9**, below; ~~and~~
- (b) An informal determination, as discussed in **section 7.3**, below; ~~and~~ -
- (c) A delineation, identification, or verification as part of a request for verification of an exemption, notice of intent to use a general permit, or application for an individual or conceptual approval permit.

7.1.1 Data Form

Agency staff shall use Form 62-330.201(1), F.A.C., “Chapter 62-340, F.A.C. Data Form, (effective date), incorporated by reference in Rule 62-330.201(1), F.A.C., to document verification of determinations of the landward extent of wetlands and other surface water for notices and applications for ERP permits and formal or informal determinations of the landward extent of wetlands and other surface waters. The “Chapter 62-340, F.A.C. Data Form Guide” in Appendix J, the “62-340, F.A.C. Data Form Instructions”, in Appendix K, and the “Florida Wetland Delineation Manual”, which is available for download on the Department website, may be used to assist staff and other environmental professionals in completing the form and performing delineations.

Any time a regulatory agency concludes or determines that an area is a non-wetland surface water, wetland, or upland at least one data point should be documented, *i.e.*, once a conclusion informally or formally has been made by the regulatory agency at least one complete data form supporting that conclusion is required.

The number of data forms required will depend on the size and variability of the site inspection area. There is no size threshold or maximum number of data forms required for an inspection site. Reasonable scientific judgement should be used to determine the number of required data forms on a case by case basis.

- (a) For the delineation of the landward extent of wetlands and other surface waters, at least one delineation data point along the boundary shall be verified and documented by the regulatory agency during the visual site inspection pursuant to Chapter 62-340.100(1), F.A.C. Documentation of a delineation data point shall include two data forms; one representative of the waterward area adjacent to the data point, the other representative of the landward or upland area adjacent to the data point. The two complete data forms at a

delineation data point will document failure or satisfaction of all methodology criteria pursuant to Chapter 62-340, F.A.C., and changes in evidence used to determine the boundary delineation at that point.

A delineation data point will be documented for each homogeneous boundary within the site inspection area. If all delineation boundaries on site are homogenous in character, one data point is sufficient for documentation. One delineation data point representative of homogeneous boundaries found in other locations throughout the site is sufficient for documentation.

For purposes of the delineation data point, “homogeneous boundary” means all or part of a site delineation that is sufficiently similar in current condition to be delineated determine the landward extent of wetlands and other surface waters with a particular “test(s)” or interpretation of evidence as contemplated in Chapter 62-340, F.A.C. Characteristics that distinguish homogeneous boundaries may include, but are not limited to:

1. plant community type,
2. surface water type,
3. hydrologic indicators,
4. soils,
5. alterations to plants, hydrology, or soils,
6. hydrologic isolation or connection to waters of the State, or
7. other current condition expression which separate it from other boundaries on site.

- (b) For identification or conclusions regarding the absence or presence of a non-wetland surface water, wetland, or upland classification by the regulatory agency within the site inspection area, at least one data form within homogeneous areas of classification shall be verified and documented by the regulatory agency during the visual site inspection pursuant to Chapter 62-340.100(1), F.A.C. Documentation of an identification data point shall include one data form representative of the area of classification. The data form at an identification data point will document failure or satisfaction of all methodology criteria pursuant to Chapter 62-340, F.A.C. and evidence used to determine the upland, wetland, or non-wetland surface water classification.

An identification data point will be documented for each homogeneous area within the site inspection area. If all areas on site are homogenous in character, one data point is sufficient for documentation. One data point representative of homogeneous areas found in other locations throughout the site is sufficient for documentation.

For purposes of the identification data point, “homogeneous area” means all or part of a site inspection area that is sufficiently similar in current condition to classify with a particular “test(s)” or interpretation of evidence as contemplated in Chapter 62-340, F.A.C. Characteristics that distinguish a homogeneous area may include, but are not limited to:

1. upland classification,
2. wetland classification,
3. non-wetland surface water classification,
4. hydrologic isolation or connection to waters of the State,
5. plant community type,
6. surface water type,
7. hydrologic indicators,
8. soils,

9. alterations to plants, hydrology, or soils, or
10. other current condition expression which separate it from other areas on site.

7.2.1 Preparation and Submittal of the Petition

The petition shall contain:

- (a) One copy of completed Form 62-330.201(24), "Petition for a Formal Determination of the Landward Extent of Wetlands and Other Surface Waters," including copies of all items required by that form; and
- (b) The processing fee required in Rule 62-330.071, F.A.C.
- (c) The petition shall be submitted to the Agency office that will have permitting responsibility for the types of activities proposed for the lands subject to the Determination, in accordance with the Operating Agreements incorporated by reference in Chapter 62-113, F.A.C.

7.2.2 Processing the Petition

- (a) Within 30 days of receipt of a petition for a formal determination of the landward extent of wetlands and other surface waters, and within 30 days of receipt of any additional information submitted by the petitioner in accordance with this subsection, the Agency shall notify the petitioner of any additional information which may be necessary to complete the review of the petition. The applicant may voluntarily submit a written waiver of the above 30-day time clock requirement to allow the Agency additional time to determine if additional information is required. The Agency is not obligated to accept the waiver or to delay sending the request for additional information.

The petitioner shall have 90 days from the date the Agency mails a timely request for additional information to submit that information to the Agency. If a petitioner requires more than 90 days in which to respond to a request for additional information, the petitioner may notify the Agency in writing of the circumstances, at which time the petition shall be held in active status for one additional period of up to 90 days, if approved by the Agency. Additional extensions shall be granted by the reviewing Agency for good cause shown by the petitioner. A showing that the petitioner is making a diligent effort to obtain the requested additional information shall constitute good cause. Failure of a petitioner to provide the timely requested information by the applicable deadline shall result in administrative denial of the petition without prejudice to re-apply.

1. For petitions processed by DEP, it will complete the determination and issue a notice of intended agency action within 60 days after the petition is deemed complete. The petitioner shall publish, at its own expense, the notice of proposed agency action in a newspaper of general circulation in the affected area. The petitioner shall provide a copy of the proof of publication of the notice of intended agency action to DEP using the format prescribed in subsection 62-110.106(5), F.A.C. The Agency shall send the property owner a copy of the Agency determination if the owner is not the petitioner.

2. For petitions processed by a District, the District shall complete the determination and shall issue a notice of intended agency action within 60 days after the petition is deemed complete. The petitioner may publish, at its own expense, the notice of proposed agency action in a newspaper of general circulation in the affected area. If published, the petitioner shall provide a copy of the proof of publication of the notice of intended agency action to the District. The District shall send the property owner a copy of the Agency determination if the owner is not the petitioner.
- (b) The petition shall be denied if the Agency determines that the materials submitted to the reviewing agency do not contain all the applicable information required in this subsection, including if the petitioner does not correctly delineate the landward extent of wetlands and other surface waters in accordance with Chapter 62-340, F.A.C. The Agency shall complete the determination and shall issue a notice of intended agency action within 60 days after the petition is deemed complete unless the petitioner provides the reviewing agency with a written waiver of this time limit. A person requesting a formal determination may withdraw the petition without prejudice at any point before final agency action.
 - (c) Sections 120.569 or 120.57, F.S., apply to formal determination decisions made by the Agency.
 - (d) Prior to the Agency's inspection of real property, the petitioner or its agent shall initially delineate the boundaries of wetlands and other surface waters on the site by flagging the field locations of wetland and other surface water boundaries (for a certified survey or a global positioning system [GPS] approximate delineation), or by depicting the extent of wetlands and other surface waters on the most recent aerials (for an approximate delineation). Inspection boundaries or the limits of the area to be delineated shall be clearly marked and easily discernible in the field. An Agency representative will then verify the location of the wetland and other surface water boundaries and indicate any necessary adjustments of the petitioner's initial determination to reflect an accurate delineation. When the real property is less than 10 acres, the petitioner may elect to not pre-flag for verification, in which case the reviewing Agency will flag the wetland and other surface water boundaries during its inspection of the site. ~~Inspection boundaries must be clearly marked and easily discernible in the field.~~ Verification and documentation of the wetland and other surface water boundaries by the Agency representative shall be conducted in accordance with Chapter 62-340, F.A.C., and section 7.1.1(a), above.
 - (e) A petitioner may request a formal determination in the form of a certified survey, an approximate delineation, or combinations thereof, as described below.
 1. When a certified surveyed delineation of the extent of wetlands and other surface waters is used, the survey shall be prepared and certified by a Professional Surveyor and Mapper registered in the State of Florida. The surveyor or the surveyor's representative shall accompany the Agency representative on the delineation verification described in section 7.2.2(f), below, and shall have the surveyor survey the verified boundaries of wetlands and other surface waters. The certified survey shall include a legal description of, and acreage contained within, and depict the boundaries of the property for which the determination is sought. The boundaries of wetlands and other surface waters must be witnessed to the property boundaries, and shall be capable of being mathematically reproduced from the survey. The petitioner must submit to the Agency one electronic copy or

three paper copies of the certified survey, along with one copy of the survey depicted on aerial photographs to complete the petition.

2. When an approximate delineation is used, it shall consist of a depiction of the approximate boundary of wetlands and other surface waters produced by using a GPS, or the boundary of wetlands and other surface waters drawn on rectified aerial photographs, or a combination thereof. The approximate delineation shall be subject to the following:
 - a. A range of variability shall be determined for all depictions of approximate wetland and other surface water boundaries by comparing a number of field located flagged points of the delineated wetland and other surface water points field delineated by GPS, to field located and surveyed boundary points. The Agency shall determine the number and location of comparison points using the total linear feet of approximately delineated wetland and other surface water boundaries such that the total number of comparison points reflects at least one specific surveyed comparison point for every 1,000 feet of approximately depicted wetland and other surface water boundary. No fewer than three comparison points shall be performed for each approximate delineation. The applicant may request that artificial waterbodies that were constructed entirely in uplands be excluded from the linear feet calculation when determining the number of required comparison points. This exclusion is limited to artificial waterbodies for which the Agency has confirmed a delineation in accordance with 62-340.600(2)(d), F.A.C., and that meet the definition in paragraph 2.0(a)10 of this Volume, except when the exclusion would result in an approximate delineation with less than three comparison points. For GPS approximate delineations, the petitioner shall provide a survey prepared and certified by a Professional Surveyor and Mapper registered in the State of Florida, to show the relationship of surveyed comparison points to the GPS depicted wetland and other surface water boundaries. The range of variability shall be the greatest deviation measured at the surveyed comparison points. An approximate GPS depiction of wetland and other surface water boundaries cannot be used if the range of variability is equal to or greater than 25 feet.
 - b. A range of variability shall be determined for all approximate wetland and other surface water boundaries hand drawn on aerial photographs by comparing a number of specific wetland and other surface water boundary points indicated on the rectified aerial photograph, to field located and surveyed boundary points. The Agency shall determine the number and location of comparison points using the total linear feet of approximately delineated wetland and other surface water boundary such that the total number of comparison points reflects at least one specific surveyed comparison point for every 1,000 feet of approximately delineated wetland and other surface water boundary. No fewer than three comparison points shall be performed for each approximate delineation. The applicant may request that artificial waterbodies that were constructed entirely in uplands be excluded from the linear feet calculation when determining the number of required comparison points. This exclusion is limited to artificial waterbodies for which the Agency has confirmed a delineation in

accordance with 62-340.600(2)(d), F.A.C., and that meet the definition in paragraph 2.0(a)10 of this Volume, except when the exclusion would result in an approximate delineation with less than three comparison points. For approximate wetland and other surface water boundaries hand drawn on an aerial photograph, the petitioner shall provide a specific purpose survey prepared and certified by a Professional Surveyor and Mapper registered in the State of Florida, to show the relationship of surveyed comparison wetland and other surface water boundary points to the aerial photo-interpreted wetland and other surface water boundary points. The range of variability shall be the greatest deviation measured at the surveyed comparison points. An approximate hand-drawn aerial photograph delineation method cannot be used if the range of variability is equal to or greater than 25 feet.

- c. A rectified aerial photograph shall serve as the basis for an approximate delineation hand-drawn on aerial photographs only when the boundaries of wetlands and other surface waters are accurately depicted on the aerial photograph by the clear expression of vegetative or physical signatures of the vegetative communities as verified by ground-truthing. If a submitted rectified aerial photograph does not provide a clear expression of vegetative or physical signatures of the vegetative communities or other surface water features on the property, or cannot be accurately depicted, then the landward extent of wetlands and other surface waters shall be delineated by flagging the boundary, and the formal determination shall be produced using the procedure for a certified survey described above in section 7.2.2(e)1; or by depiction of the approximate wetland and other surface water boundaries field delineated by GPS as described above in section 7.2.2(e)2.a., or a combination thereof.
- d. After any verification and adjustment as required in section 7.2.2(f), below, the petitioner shall submit one copy of the following to complete the petition: the hand-drawn wetland and other surface water boundaries on a rectified aerial photograph; or a depiction of the approximate wetlands and other surface waters field-delineated by GPS on a rectified aerial photograph, along with one electronic copy or three paper copies of a survey prepared and certified by a Professional Surveyor and Mapper registered in the State of Florida, to show the relationship of field located surveyed comparison points to the approximate field GPS boundary points or the wetlands and other surface waters boundary drawn on a rectified aerial photograph.
- e. As a condition of an approximate formal determination, when a subsequent permit application includes regulated activities within 200 feet of the landward extent of the approximate delineation, the applicant shall field-establish and flag or stake the exact wetlands and other surface waters boundaries pursuant to Chapter 62-340, F.A.C., at that location for verification by the reviewing Agency. The purpose of the flagging or staking is to identify the line to minimize the potential for unintentional disturbance of the wetlands or other surface waters. If the regulated activities are in such proximity to the field-established line that it is necessary for the Agency to require the field-established line to be

documented as part of the permit application or formal determination, or if required as part of accepting a site-protection instrument proposed by the applicant, the line as field-verified by the reviewing Agency shall be located by a surveyor or mapper registered in the State of Florida. The field-established line does not need to be documented when any of the following exist:

- (1) The project will involve dredging or filling of an entire wetland or other surface water encompassed by the approximate delineation, and the impact meets the requirements of section 10.2.1 of Volume I. If only a portion of the wetlands or other surface waters at that location is proposed for dredging or filling, the need to stake or flag the field-established line or the proposed limits of dredging or filling will be determined by the Agency during processing of the permit application based on factors such as those in (2) through (3) below.
 - (2) The precise location of the wetland or other surface water boundary is not needed to demonstrate compliance with section 10.2.7 of Volume I.
 - (3) Flagging or staking of the field-established line will not materially affect whether the project impacts can be determined by relying on the approximate delineation.
- (f) Prior to the Agency's inspection of the site the petitioner or their agent shall submit to the reviewing agency a depiction of the delineation of wetlands and other surface waters that have been flagged (for a certified survey or a global positioning system [GPS] approximate delineation) or photointerpreted (for an aerial approximate delineation) on the most recent aerial photographs that depict the property. This aerial depiction is not required for a GPS approximate when the real property is less than 10 acres in size and the petitioner has elected to have the reviewing Agency flag the wetland and other surface water boundaries during its inspection of the site. Verification and documentation of the wetland and other surface water boundaries by the Agency representative shall be conducted in accordance with Chapter 62-340, F.A.C., and section 7.1.1(a), above.
- (g) Pursuant to Section 373.421, F.S., an issued formal determination of the landward extent of wetlands and other surface waters is binding only for the limits of wetlands and other surface waters as defined and delineated under Chapter 62-340, F.A.C.

7.2.4 Renewal of Determination. A petition for a new formal determination for a property for which a formal determination issued pursuant to this rule already exists shall qualify for a renewal for an additional five years at a reduced processing fee under Rule 62-330.071, F.A.C., provided:

- (a) Physical conditions on the property have not altered the boundaries of wetlands or other surface waters during the period of the existing determination, other than changes that have been authorized by a permit issued under Part IV of Chapter 373, F.S. Site conditions shall be documented in accordance with section 7.1.1(a), above.;

- (b) The petition is submitted within 60 days prior to the expiration of the existing determination; and
- (c) The methodology in Chapter 62-340, F.A.C., has not been amended since the previous formal determination.

7.2.5 Re-issuance of Determination. A petition for a new formal determination for a property for which a formal determination was previously issued pursuant to this rule but has since expired shall qualify for a re-issuance for an additional five years at a reduced processing fee under Rule 62-330.071, F.A.C., provided:

- (a) Physical conditions on the property have not altered the boundaries of wetlands or other surface waters during the period of the former determination, other than changes that have been authorized by a permit issued under Part IV of Chapter 373, F.S. (Site conditions shall be documented in accordance with section 7.1.1(a), above);
- (b) The petition is submitted within two years of the expiration of the former determination; and
- (c) The methodology in Chapter 62-340, F.A.C., has not been amended since the previous formal determination.

7.2.6 through 7.2.9 No change.

7.3 Informal Determinations.

- (a) The Agency may issue informal, non-binding pre-application determinations of wetlands and other surface waters. Such determinations will be performed only as Agency staff time and resources allow. Applicants are strongly advised to contact Agency staff prior to requesting an informal determination, as staff resources to perform these determinations are very limited.

Informal determinations are provided as a public service, and are available only to the property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in the parcel of property.

- (b) A request for an informal determination by the Agency requires payment of the fee in Rule 62-330.071, F.A.C., but:
 - 1. Will be limited to one of the following:
 - (a) Presence or absence identification of wetlands, non-wetland surface waters, or uplands. Verification and documentation shall be conducted in accordance with Chapter 62-340, F.A.C., and section 7.1.1(b), above. The potential existence of wetlands and other surface waters on the property;

- (b) Verification of the landward extent of wetlands and other surface waters established using Chapter 62-340, F.A.C., and marked in the field prior to the Agency inspection. Verification and documentation shall be conducted in accordance with Chapter 62-340, F.A.C., and section 7.1.1(a), above.
- 2. Is not an application for a permit.
- 3. Is not subject to the processing review timeframes in Chapter 120 or 373, F.S.
- (c) An informal determination by the Agency, if issued:
 - 1. Does not constitute final agency action;
 - 2. Is subject to change, and does not bind the Agency, nor does it convey any legal rights, expressed or implied. Persons obtaining an informal pre-application determination are not entitled to rely upon it for purposes of compliance with law or Agency rules.
- (d) An inability of the Agency to perform an informal determination also does not constitute a default of agency action.

APPENDIX C FORMS

The following forms incorporated for use in Chapter 62-330, F.A.C., (as identified by the Form number) are listed below.

Form No.	Title
Form 62-330.050(1)	“Request for Verification of an Exemption” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02468"]]
Form 62-330.0511(1)	“Notice of Intent to Construct a Minor Silvicultural System” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02510"]]
Form 62-330.060(1)	Section A “Application for Individual and Conceptual Approval Environmental Resource Permit, State 404 Program Permit, and /Authorization to Use State-Owned Submerged Lands” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section B: For Single-Family Projects [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section C: Supplemental Information for Works or Other Activities In, On, Over Wetlands and/or Other Surface Waters [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section D: Supplemental Information For Works or Other Activities Within Surface Waters [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section E: Supplemental Information Required for Works or Other Activities Involving a Stormwater Management System (Other Than a Single-Family Project [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section F: Application For Authorization to Use State-Owned Submerged Lands [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section G: Supplemental Information Required for Mitigation Banks [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] Section H: Supplemental Information for Stormwater Management Systems for Mines [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-03189"]] <u>Section I: Supplemental Information for State 404 Program Permits</u> <u>[dos link]</u> Attachments 1-3: Application Form Instructions, Agency Contacts, and Application Fees [http://www.dep.state.fl.us/water/wetlands/erp/forms.htm]
Form 62-330.090(1)	“Recorded Notice of Environmental Resource Permit” [http://www.flrules.org/Gateway/reference.asp?No=Ref-02519]
Form 62-330.201(1)	“Chapter 62-340, F.A.C. Data Form” <u>[dos link]</u>

Form 62-330.201(24)	“Petition for a Formal Determination of the Landward Extent of Wetlands and Other Surface Waters” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02471"]]
Form 62-330.301(1)	“Performance Bond To Demonstrate Financial Assurance for Mitigation” [[HYPERLINK "http://www.flrules.org/Gateway/reference.asp?No=Ref-02472"]]
Form 62-330.301(2)	“Irrevocable Letter of Credit to Demonstrate Financial Assurance for Mitigation” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02473"]]
Form 62-330.301(3)	“Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02474"]]
Form 62-330.301(4)	“Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02477"]]
Form 62-330.301(5)	“Escrow Agreement” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02476"]]
Form 62-330.301(6)	“Guarantee Bond To Demonstrate Financial Assurance for Mitigation” [[HYPERLINK "http://www.flrules.org/Gateway/reference.asp?No=Ref-02488"]]
Form 62-330.301(8)	“Deed of Conservation Easement, Standard” [[HYPERLINK "http://www.flrules.org/Gateway/reference.asp?No=Ref-02489"]]
Form 62-330.301(9)	“Deed of Conservation Easement, Standard, With Third Party Beneficiary Rights” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02490"]]
Form 62-330.301(10)	“Deed of Conservation Easement – Passive Recreational Uses” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02491"]]
Form 62-330.301(11)	“Deed of Conservation Easement – Riparian Uses” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02492"]]
Form 62-330.301(12)	“Deed of Conservation Easement for Local Governments” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02493"]]
Form 62-330.301(13)	“Deed of Conservation Easement with Third Party Beneficiary Rights to the U.S. Army Corps of Engineers” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02494"]]
Form 62-330.301(14)	“Declaration of Restrictive Covenants” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02495"]]
Form 62-330.301(15)	“Declaration of Restrictive Covenants –Insert” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02496"]]
Form 62-330.301(16)	“Temporary Easement for Construction Access” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02497"]]
Form 62-330.301(17)	“Permanent Access Easement” [[HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02498"]]

A.H. Volume I
Appendix C- 2

Forms for Chapter 62-330, F.A.C.

(This Appendix is not
Incorporated, Effective date)

Form 62-330.301(18)	“Joint Deed of Conservation Easement – Standard (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09377 "]]
Form 62-330.301(19)	“Joint Deed of Conservation Easement — Third Party Beneficiary Rights (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09378 "]]
Form 62-330.301(20)	“Joint Deed of Conservation Easement — Passive Recreational Uses (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09379 "]]
Form 62-330.301(21)	“Joint Deed of Conservation Easement — Riparian Uses (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09380 "]]
Form 62-330.301(22)	“Joint Deed of Conservation Easement — Local Governments (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09381 "]]
Form 62-330.301(23)	“Joint Deed of Conservation Easement — Third Party Beneficiary Rights to the U.S. Army Corps of Engineers (within Broward County),” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09382 "]]
Form 62-330.301(24)	“Deed of Conservation Easement for Mitigation Banks – Third Party Beneficiary Rights to the U.S. Army Corps of Engineers,” [[HYPERLINK " http://www.flrules.org/Gateway/reference.asp?No=Ref-09383 "]]
Form 62-330.310(1)	“As-Built Certification and Request for Conversion to Operation Phase” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02499 "]]
Form 62-330.310(2)	“Request For Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02500 "]]
Form 62-330.310(3)	“Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02501 "]]
Form 62-330.311(1)	“Operation and Maintenance Inspection Certification” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02502 "]]
Form 62-330.311(2)	“Regional Stormwater Management System Annual Report” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02503 "]]
Form 62-330.340(1)	“Request to Transfer Environmental Resource <u>and/or State 404 Program</u> Permit” [http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX]
Form 62-330.350(1)	“Construction Commencement Notice” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02505 "]]
Form 62-330.360(1)	“Emergency Field Authorization” [[HYPERLINK " https://www.flrules.org/Gateway/reference.asp?No=Ref-02506 "]]
Form 62-330.402(1)	“Notice of Intent to Use an Environmental Resource <u>and/or State 404 Program</u> General Permit” [https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX]

- Form 62-330.417(1) "Agreement to Maintain Public Access" [[HYPERLINK
"http://www.flrules.org/Gateway/reference.asp?No=Ref-02508"]]
- Form 62-330.417(2) "Agreement to Maintain Public Access and Operate Stormwater System" [[
HYPERLINK "https://www.flrules.org/Gateway/reference.asp?No=Ref-02509"
]]

All forms are listed by rule number, which is also the form number, and with the subject title and effective date. Copies of forms may be obtained from the above Internet links, or from any local district or branch office of the Agencies (see subsection 62-330.010(5), F.A.C., and Appendix A).

APPENDIX H

National Bald Eagle Management Guidelines

Appendix H-1 A.H. Volume I

National Bald Eagle Management Guidelines FWC Bald
Eagle Management
Plan (This Appendix is
not incorporated;
Effective date, 10-1-13)

APPENDIX J

Chapter 62-340, F.A.C. Data Form Guide

APPENDIX K

Chapter 62-340, F.A.C. Data Form Instructions